

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 05-CV-72593-DT

WILLIAM E. PHILLIPS,

Defendant.

ORDER OF DISMISSAL

On January 10, 2006, the court issued an “Order Denying Plaintiff’s ‘Petition For Order Permitting Substituted Service of Process’ and Directing Plaintiff to Show Cause Why Case Should Not Be Dismissed.” In that order, the court stated that it intended to “dismiss [the] case for lack of prosecution pursuant to Local Rule 41.2 because the case [had been] filed more than 120 days ago and no proof of service [had] been filed as required as to Defendant.” (1/10/06 Order at 1.) In that order, the court ordered Plaintiff to “respond in writing no later than January 25, 2006, showing good cause why the case should not be dismissed.” (*Id.* at 2.) The court expressly stated that if “no response is filed or no good cause is shown, the case will be dismissed without prejudice.” (*Id.*) The docket reflects that on January 17, 2006, the summons was returned executed as

to Defendant [Dkt. # 4],¹ however, as of the date of this order, Plaintiff has not responded to the court's January 10, 2006 order. Accordingly,

IT IS ORDERED that Plaintiff's case is DISMISSED WITHOUT PREJUDICE.

S/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: January 31, 2006

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, January 31, 2006, by electronic and/or ordinary mail.

S/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522

¹Fed. R. Civ. P. 4(m) provides in relevant part:

If service of the summons and complaint is not made upon a defendant within 120 days after the filing of the complaint, the court, upon motion or on its own initiative after notice to the plaintiff, shall dismiss the action without prejudice as to that defendant or direct that service be effected within a specified time; provided that if the plaintiff shows good cause for the failure, the court shall extend the time for service for an appropriate period.

Federal Rule of Civil Procedure Rule 4(m). Plaintiff has made no showing of good cause for its failure to effectuate service within 120 days and there has been no court-ordered extension of time.